

DOCUMENT RESUME

ED 421 990

IR 018 969

TITLE When Distance Education Crosses State Boundaries: Western States' Policies. 1995.

INSTITUTION Western Interstate Commission for Higher Education, Boulder, CO. Western Cooperative for Educational Communications.

SPONS AGENCY Fund for the Improvement of Postsecondary Education (ED), Washington, DC.

PUB DATE 1995-00-00

NOTE 51p.

AVAILABLE FROM Western Cooperative for Educational Telecommunications, WICHE, P.O. Box 9752, Boulder, CO 80301-9752; phone: 303-541-0290; World Wide Web: <http://www.wiche.edu>

PUB TYPE Reports - Research (143)

EDRS PRICE EDRS Price MF01 Plus Postage. PC Not Available from EDRS.

DESCRIPTORS Access to Education; Accreditation (Institutions); Accrediting Agencies; *Distance Education; Educational Quality; *Extension Education; External Degree Programs; *Higher Education; Information Policy; *Information Transfer; Open Universities; *Postsecondary Education; Surveys; Telecommunications; Telecourses

IDENTIFIERS *Telecommunications Policy; Western Cooperative for Educ Telecommunications

ABSTRACT

This report summarizes western states' policies and regulations governing the approval of higher education programs electronically delivered across state lines by institutions in other states. It caps the first year's activities in a 3-year Western Cooperative for Educational Telecommunications project, "Balancing Quality and Access: Reducing State Policy Barriers to Electronically Delivered Higher Education Programs," designed to foster an interstate environment that encourages the interstate electronic delivery of quality higher education programs. The following states are included: Alaska; Arizona; California; Colorado; Hawaii; Idaho; Montana; Nevada; New Mexico; North Dakota; Oregon; South Dakota; Utah; Washington; and Wyoming. The data was obtained through a written survey and request for documents from the states' higher education agencies, and a series of phone interviews with individuals in the state-level offices and in higher education institutions in the West. Also included is a table summarizing the states' policy data, and contact information for each state's higher education agency. Two appendices contain: (1) "Principles of Good Practice for Electronically Offered Academic Degree and Certificate Programs," developed by representatives of the states' higher education agencies, higher education institutions, and the regional accrediting community; and (2) "Project Overview and Implementation Options."

* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *

ED 421 990

PERMISSION TO REPRODUCE AND
DISSEMINATE THIS MATERIAL IN
MICROFORM ONLY HAS BEEN GRANTED BY

Claire Mathews

WHEN DISTANCE EDUCATION CROSSES STATE BOUNDARIES:

2B

WESTERN
STATES'
POLICIES

1995



A program of **WICHE**
Western Interstate Commission for Higher Education

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION
CENTER (ERIC)

- ☐ This document has been reproduced as received from the person or organization originating it.
- ☐ Minor changes have been made to improve reproduction quality.

- Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

TR 012469

When Distance Education Crosses State Boundaries:

Western States' Policies

1995

Published June 1995

Western Interstate Commission for Higher Education

P.O. Drawer P, Boulder, CO 80301-9752

Telephone: 303/541-0200, Fax: 303/541-0291

An Affirmative Action/Equal Opportunity Employer

Publication Number 2A260

The Western Cooperative for Educational Telecommunications is a program of the Western Interstate Commission for Higher Education (WICHE). Its mission is to improve the efficiency, quality, and impact of educational telecommunications programs and systems. The Western Cooperative, through direct involvement of its member organizations, facilitates information and resource sharing, conducts evaluation and policy projects, and acts as an educational technology advocate. Its membership represents state, education, and industry interests in educational telecommunications and distance education. Funding assistance to the Western Cooperative is provided by member dues and WICHE.

WICHE is a regional educational compact established by western states to promote and facilitate resource sharing, collaboration, and cooperative planning among those states and their colleges and universities. Member and affiliated states are: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

This report was prepared as part of a three-year Western Cooperative project funded by the U.S. Department of Education's Fund for the Improvement of Postsecondary Education (FIPSE). For further information about this report, contact the Western Cooperative, P.O. Drawer P, Boulder, CO 80301-9752, telephone: 303-541-0231, fax: 303-541-0291.

General information about WICHE and the Western Cooperative is also available on the World Wide Web at <http://www.wiche.edu>

© 1995 by the Western Cooperative for Educational Telecommunications, a program of the Western Interstate Commission for Higher Education (WICHE). All rights reserved.

TABLE OF CONTENTS

Foreword	v
Introduction	1
Table 1: WICHE States' Regulation of Higher Education Programs Originating from Other States and Distance Education Programs.....	6
Alaska	7
Arizona	10
California.....	12
Colorado	14
Hawaii.....	16
Idaho	17
Montana	19
Nevada	20
New Mexico	21
North Dakota	23
Oregon	25
South Dakota	27
Utah	29
Washington	30
Wyoming	32
APPENDICES:	
Principles of Good Practice for Electronically Offered Academic Degree and Certificate Programs	35
Project Overview and Implementation Options	39

F oreword

by Michael B. Goldstein

A dozen or so years ago, a group of state regulators and accreditors met to decide what to do about a rash of branch campuses that seemed to be popping up like mushrooms around the nation. They feared that, without tight interstate controls, institutions would expand their operations from state to state. One state regulator rose to admonish the group that they were engaged in perfecting the Pony Express while telegraph wires were being strung along the trail: the use of telecommunications to deliver higher education would soon make branch campuses a thing of the past. He warned that unless states assumed a role in managing the interstate delivery of telecommunicated learning—then an almost entirely unregulated phenomenon—someone else, probably the Federal government, would do so.

Out of this brief discussion emerged Project Alltel (Accreditation and Licensure of Learning via Telecommunications), a joint effort of the State Higher Education Executive Officers Association and the Council on Postsecondary Accreditation to agree on a framework for the licensure and accreditation of telecommunicated learning delivered across state lines. At an early meeting of the project's steering committee, someone asked HOW a state

could regulate instruction dropping down through the ether. One regulator rose and said — only half-jokingly — that he would just hire a plane to sprinkle aluminum foil chaff along his state's borders.

These two anecdotes illustrate a continuing dilemma: states want to ensure that education delivered across state lines via technology is regulated to ensure that it meets appropriate quality standards. At the same time, it is enormously difficult to apply artificial boundaries to delivery systems that defy such constraints.

The following pages offer a fascinating picture of how individual states have tried to come to grips with this phenomenon. At one extreme are those jurisdictions that have simply decided not to address telecommunicated learning at all. At the other are a few that have laid claim to plenary authority: if the instruction reaches learners within the state, then the offering entity — or some surrogate — must meet the state's standards, or else.

But it is the "or else" that is troublesome. It is long settled that a state has the authority to regulate entities acting within its boundaries to deliver educational services. It is equally clear that if an institution is not "present" in the state, there is no state jurisdiction. But does the "presence" of an electronic signal wafting down from a satellite trigger state authority? Does a cable system or television station carrying a service that broadcasts telecourses offered by an out-of-state institution

become a surrogate for that institution? Is education delivered over the Internet subject to state regulation?

Perhaps the only reasonable solution is to regulate telecommunicated learning at its source. Under a "reciprocity model," any receiving state could rely on the home state's licensure and the regional accreditation of the transmitting institution to ensure quality. That the Western States have joined together in this FIPSE-funded project is evidence in itself that there is a desire to work collectively to balance the need to protect the consumer/learner without denying him or her access to the nationwide – indeed world-wide – marketplace of ideas that is the future of telecommunicated learning.

The Principles of Good Practice are an important starting point for consensual oversight, and the Implementation Options present a concrete set of alternative routes – among them consensual reciprocity – for achieving that goal. I am confident that through this project we will yet see a system that can assure every learner that the instructional programming falling from the Heavens – or flowing out of the cable outlet or telephone plug – not only arrives in quantity but also delivers the quality he or she is entitled to expect.

Introduction

This publication summarizes western states' policies and regulations governing the approval of higher education programs electronically delivered across state lines by institutions in other states. It caps the first year's activities in a Western Cooperative for Educational Telecommunications project, **Balancing Quality and Access: Reducing State Policy Barriers to Electronically Delivered Higher Education Programs**. Supported by the Fund for the Improvement of Postsecondary Education (FIPSE), this three-year project is designed to foster an interstate environment that encourages the interstate electronic delivery of quality higher education programs.

The information presented here was obtained initially through a written survey and a request for documents from the state higher education agencies in the 15 western states. Following a review of these documents, project staff sought clarification and additional information

through a series of phone interviews with individuals in the state-level offices and in higher education institutions in the West. Although the FIPSE project focuses specifically on higher education offered across state lines, this report offers a broad view of interstate regulations as well as information on states whose policies specifically address programs delivered electronically.

Determining Quality in Electronically Delivered Higher Education Programs

In addition to gaining the picture of the Western states' current regulatory environment that is reflected in this document, the project has thus far also achieved broad agreement among those in the WICHE region on the "Principles of Good Practice for Electronically Offered Academic Degree and Certificate Programs." These Principles are listed in the Appendix to this document. Project staff will now work with individual states and their higher education agencies to achieve region-wide adoption of the Principles and with the regional accrediting commissions' Distance Education Task Force to build on this document in revising the relevant accreditation review process.

State Policies and Practices

As Table 1 (page 6) and the ensuing state profiles make clear, WICHE states vary widely in terms of whether and to what degree they regulate higher education programs offered by out-of-state institutions. Some states require

out-of-state institutions simply to register or notify the appropriate agency if they plan to offer programs, while others require specific authorization or licensure of institutions planning to offer programs. States' policies on licensure also vary; authorization or licensure may be required in any of the following cases: of *any* out-of-state institution; only of private institutions; only if the out-of-state institution has a physical presence in the state; or only of non-accredited institutions.

Although only six WICHE states currently have policies that specifically address electronically delivered programs, the information on states' regulations of out-of-state programs provides some sense of the variety and complexity facing an institution interested in proposing an electronically delivered program across state lines.

The following WICHE states have specifically addressed the regulation of electronically delivered higher education programs originating in other states: California, Colorado, Idaho, Oregon, South Dakota, and Washington. Even among these states, however, there is wide variance in the ways they have approached the issue:

- The registration act governing out-of-state institutions offering programs in Washington requires student and faculty interaction in courses offered electronically.
- In 1992, South Dakota's legislature added an amendment that added programs offered "through electronic media" to the definition of out-of-state

programs subject to licensing requirements.

- 7 Idaho's policy applies to out-of-state institutions wishing to offer programs on its statewide telecommunications network; approval must come from the in-state institution "under whose role and mission the proposed program use would fall."
- 7 Oregon emphasizes that physical presence in the state is the basis for all regulation; however, it also identifies a "provider of an instructional communications medium..." as a representative of a school, and thus regulates cable operators that provide education programming.
- 7 Colorado determines whether an institution will be authorized to offer "half or more of a degree program via telecommunications" on responses to issues raised in a document entitled Uniform Information on Degree and Credit-Bearing Certificate Programs to be Offered Via Telecommunications.³

The "Physical Presence" Issue

States have traditionally relied on the concept of "physical presence" to determine whether they have the authority to regulate an institution from out of state. If the

³The Uniform Information on Degree and Credit-Bearing Certificate Programs to be Offered Via Telecommunications was developed in 1990 by staff at the New York Board of Regents and the Virginia State Council of Higher Education.

out-of-state institution is physically present, that is, if a representative enters the state to solicit or enroll students, the receiving state may then require the institution to seek approval or authorization. "Physical presence" is itself not defined in the same way in each state, however, and it is especially difficult to define in the case of courses offered via technology. Several states take the position that they have no real control over courses offered via technologies that need not acknowledge state borders.

The Role of Regional Accreditation

The project has made clear the continuing role that regional accreditation plays in the interstate approval process. In many WICHE states accreditation is the principal criterion for granting approval to out-of-state institutions interested in offering an electronically delivered academic degree program: Alaska, Arizona, California, Colorado, Hawaii,² Idaho, Nevada, New Mexico, North Dakota, Utah, Washington, and Wyoming. The accrediting community as a whole, through a Task Force on Distance Learning, is now on the brink of developing specific standards for electronically offered programs. This committee has agreed to use the Western Cooperative project's "Principles of Good Practice in Electronically Offered Academic Degree and Certificate Programs" as a starting point for developing these standards.

²Although Hawaii does not actually regulate out-of-state programs, it does require that non-accredited institutions disclose in all catalogs and promotional materials the fact that the institution is not accredited.

Table 1: WICHE States' Regulation of Higher Education Programs Originating from Other States and Distance Education Programs

State	Requires registration of out-of-state programs		Requires authorization/licensure of out-of-state programs		Covers electronically delivered programs from out-of-state	Accredited institutions exempt from licensure	Physical presence a central issue
	Public	Private	Public	Private			
AK				X		X	
AZ				X			X
CA			X	X	X		
CO			X	X	X	X	X
HI							
ID	X	X		X (non-accred.)	X		
MT	X	X					
NV				X		X	X
NM	X	X	X (in some cases)	X (in some cases)		X	
ND			X	X		X	
OR			X	X	X		X
SD			X	X	X		
UT		X (non-accred.)				X	
WA			X	X	X		X
WY				X (non-accred.)		X	

ALASKA

Policy: Out-of-state institutions must have a valid authorization to operate in the state and to enroll students. The following types of programs and institutions are exempt from this provision:

- ▮ education sponsored by a trade, business, labor, professional, religious, or fraternal association or organization recognized by the Commission and conducted for the group's membership or offered on a no-fee basis;
- ▮ recreational or avocational education;
- ▮ education offered by charitable organizations, recognized by the Commission, if the education is not advertised or promoted as leading toward educational credentials;
- ▮ nonprofit institutions;
- ▮ postsecondary institutions operated and governed by the federal government, a state, or its political subdivision.

Agents representing other postsecondary institutions must have a current permit to operate in the state. The Alaska Postsecondary Education Commission has established minimum criteria including quality of education, ethical and business practices, health and safety, and fiscal

responsibility, which must be met before authorization or permit is issued. The standards are designed to protect the public from unethical practices. Accreditation by a national or regional accrediting agency is **usually** accepted by the Commission as evidence of compliance with minimum standards. However, the Commission may require further evidence.

- ▼ *Specific to telecommunications:* The University of Alaska is dealing with the coordination of each unit's delivery of programs to other units. The Alaska Postsecondary Education Commission has identified the importance of the issue of regulating out-of-state telecommunicated degree programs, but no policies have been developed.

Authorizing Agency: The Alaska Commission on Postsecondary Education.

Procedures: Contact the Alaska Commission on Postsecondary Education for an application for a permit to operate in the state. The application must be accompanied by a catalog or brochure published, or proposed to be published, by the institution. Following review of the application, the Commission will either grant or deny authorization to operate.

Fees:

- ✔ \$100: Authorization to operate
- ✔ \$100: Renewal for authorization to operate
- ✔ \$ 50: Agent's permit
- ✔ \$ 50: Renewal of agent's permit

At the time the application is made for authorization to operate, or for renewal of an authorization to operate, an institution must post a surety bond, a cash deposit, or negotiable securities, the amount to be based on tuition revenues

Contact: Diane Barrans, Alaska Commission on Postsecondary Education, 907/465-6740.

ARIZONA

Policy: Arizona places no restrictions on public out-of-state institutions interested in offering educational programs in the state. Independent, out-of-state institutions offering vocational programs or granting degrees in Arizona must register with and be licensed by the Arizona State Board for Private Postsecondary Education. The Board issues two separate classifications of licenses: Vocational Program and Degree-Granting licenses.

- *Specific to telecommunications:* The issue of education offered via telecommunications important in the state. However, there are no state policies dealing with out-of-state institutions offering programs via electronics within Arizona.

Authorizing Agency: Arizona State Board for Private Postsecondary Education

Procedures: Accredited, independent, out-of-state institutions may apply for and obtain a Regular Vocational Program License or a Regular Degree-Granting License. Non-accredited out-of-state institutions must first apply for and obtain conditional licenses.

Procedures take between 60 and 120 days and involve:

1. Submitting a required "license application packet"
2. Submitting the appropriate, non-refundable application filing fee

3. Participating in an education facility inspection/visit
4. Appearing before the Board at a scheduled Board Meeting for licensure consideration
5. Receiving Board approval for licensure prior to recruiting students, enrolling students, accepting payment, and/or beginning educational instruction.

In order to obtain an opinion on licensure requirements for a particular instructional endeavor or to receive a "license application packet," institutions must first complete and submit to the Board a Letter of Intent. The institution will then be forwarded a licensure application packet or be otherwise notified by the State Board Office.

Fees:

- Application Filing Fee: \$800
- Surety Bond: \$15,000

Contact: Donna Marie Markley, Arizona State Board for Private Postsecondary Education, 602/542-5709.

CALIFORNIA

Policy: Since 1991, all out-of-state postsecondary and vocational institutions wishing to offer programs in California must be approved by the Council for Private Postsecondary and Vocational Education (CPPVE). Regionally accredited as well as non-accredited institutions must obtain Council approval. An approval to operate will be granted for a maximum of five years.

- *Specific to telecommunications:* The Council for Private Postsecondary and Vocational Education has statutory approval authority for programs offered by out-of-state institutions and in-state independent institutions, regardless of mode of delivery. However, there are no specific regulations addressing out-of-state programs offered via technology.

Authorizing Agency: California Council for Private Postsecondary and Vocational Education

Procedures: Request a copy of an Application for Approval to Operate a Degree Granting Institution in California from the CPPVE. The review process, which includes an on-site review, considers such criteria as: role and mission; governance and administration; ethical practices; curriculum and instruction; admission standards; graduation requirements; faculty qualifications; record-keeping; tuition and fees; physical facilities and library resources;

fiscal stability; and advertising practices.

Fees:

- ✔ \$4,500 — New and re-approval application filing fee, which is nonrefundable, for up to five degree programs.
- ✔ \$ 100 — New and re-approval application fee for each additional degree program
- ✔ \$1,000 — New and re-approval application fee for one course of vocational instruction.
- ✔ \$ 100 — New and re-approval application fee for each additional course of vocational instruction

Contact: Ken Miller, Council for Private Postsecondary and Vocational Education, 916/322-3013.

COLORADO

Policy: Out-of-state higher education institutions that have a physical presence in Colorado must register with the Colorado Commission on Higher Education (CCHE) prior to delivering instruction. A publicly-supported college or university from another state will be treated as a "private college or university." All agents and representatives of both public and private institutions must register annually until the institution meets specific criteria, such as accreditation on the basis of an on-site review by an accrediting association, or reasonable progress toward accreditation.

- ▼ *Specific to telecommunications:* An out-of-state regionally accredited college or university is given permission to offer electronically delivered courses/programs in Colorado for one year as long as there is a site visit by the appropriate accreditation group during that year and accreditation is granted. Any institution that plans to offer half or more of a degree program or credit-bearing certificate program in Colorado via telecommunications technology but with no physical presence in Colorado must have received authorization in its home state based on guidelines in *Uniform Information on Degree and Credit-Bearing Certificate Programs to be Offered Via Telecommunications*.

Authorizing Agency: Colorado Commission on Higher Education

Procedures: As a first step toward state authorization, private colleges or universities seeking state authorization should consult in person with the designated administrator of the Degree Authorization Act at the Colorado Commission on Higher Education prior to submitting any required documentation. To apply for preliminary state authorization an organization must provide documentation for the following criteria:

- ✔ Familiarity with Accreditation and State Authorization Policies and Procedures
- ✔ Statement of Mission
- ✔ Institutional Organization
- ✔ Degrees and Academic Programs
- ✔ Admission Policies
- ✔ Financial Resources

Fees: None

Contact: Tim Grieder, Colorado Commission on Higher Education, 303/866-2723.

HAWAII

Policy: The only policy relates to non-accredited institutions. These institutions are required to disclose in all catalogs and promotional materials the fact that the institution is not accredited.

Authorizing Agency: Hawaii Department of Commerce and Consumer Affairs

Fees: None

Contact: Russell Blair, Office of Consumer Protection, 808/586-2636.

IDAHO

Policy: All out-of-state institutions must register with the Board of Education. Non-accredited institutions must also receive a certificate of compliance issued by the Board.

Accredited out-of-state institutions desiring to offer academic programs (i.e., degree(s)) must submit an academic full proposal application to the Board's chief academic officer. An accredited out-of-state institution wishing to offer an academic course (not a program) must submit a "compliance request" form. The proposal or compliance form will be forwarded to the Board's Academic Affairs and Program Committee (AAPC) for evaluation for comparability to Idaho's college/universities academic programs or courses. If the course is evaluated as comparable to a course offered by an Idaho institution, it will be designated as "comparable" on the registration form; if not, it will be designated as "not comparable" on the form. Academic credit for courses evaluated as "not comparable" will not be accepted by Idaho postsecondary institutions under the direction and control of the Board.

- ▼ *Specific to telecommunications:* Idaho has a statewide telecommunications network. Out-of-state institutions may be allowed access to the network for accredited instructional purposes on a cost and time-available basis when approved by and in cooperation with the primary emphasis institution

under whose role and mission the proposed use would fall. Although Idaho has strict policies regulating courses delivered electronically, there is little attention given to such courses originating out-of-state, except those offered on the statewide telecommunications network.

Authorizing Agency: State Board of Education.

Procedures: Out-of-state institutions interested in offering a course and/or program must contact the Board of Education to obtain a registration form. The office will provide written procedures for compliance with Board requirements. Non-accredited institutions will be evaluated in terms of standards established by the Board.

Fees:

- ✔ \$100 — registration fee, per institution, per year;
- ✔ \$1,000 — processing fee for an academic program;
- ✔ \$100 — processing fee, per course;
- ✔ \$ 50 — per student, per academic year;
- ✔ \$ 50 — annual agent's permit fee (for proprietary institutions);
- ✔ Proprietary institutions must also post a surety bond. (See Idaho Code 33-2406.)

Contact: Robin A. Dodson, Idaho State Board of Education, 208/334-2270.

MONTANA

Policy: Out-of-state courses and workshops must be registered in the Commissioner's Office prior to being advertised or offered. "Such registration shall include evidence of compliance with licensing or registration requirements and applicable accreditation criteria." There are no other policies addressing educational programs being offered by out-of-state institutions.

■ *Specific to telecommunications:* Board policy addresses programs offered electronically, but only those offered by in-state institutions.

Authorizing Agency: Office of the Commissioner of Higher Education.

Procedures: Contact the Office of the Commissioner of Higher Education for information on registering courses.

Fees: None

Contact: Richard Crofts, Montana Systems of Higher Education, 406/444-6570.

NEVADA

Policy: The state has authority over out-of-state institutions only if the institution is physically located in the state or a representative enters the state to enroll students. All private institutions must be licensed by the state. Accreditation is accepted as evidence of compliance with the minimum standards established by the Commission, or the administrator may require further evidence and make additional investigation.

■ **Specific to telecommunications:** The Commission is in the process of defining substantive change in regard to distance education.

Authorizing Agency: Nevada Commission on Postsecondary Education.

Procedures: An agent of a private postsecondary institution must secure a permit to operate in the state and the institution must secure a license. Applications are available from the Nevada Commission on Postsecondary Education and must be submitted to the Commission at least twenty days prior to the date of its next meeting.

Fees: Private institutions must post a \$5,000 bond as part of their application for licensure.

Contact: David Perlman, Nevada Commission on Postsecondary Education, 702/486-7330.

NEW MEXICO

Policy: Three state laws and corresponding regulations of the Commission on Higher Education affect instruction by out-of-state postsecondary institutions. Private institutions that send paid recruiters into New Mexico to solicit students for attendance out-of-state must be registered by and pay fees to the Commission. Registration constitutes approval of the institution and its agent (s), not individual programs of instruction.

Private institutions that wish to offer instruction within the state must be licensed by and pay fees to the Commission, unless they qualify for exemptions based upon regional accreditation or offering programs that are solely religious in nature or provided for employees of specific employers or for professional/labor organizations. The Commission approves institutions, not individual programs, although it does reserve the right to deny licensure based upon evidence of substandard programs.

Although a separate third statute authorizes the Commission to approve individual programs being provided within New Mexico by public institutions from other states, the Commission has most recently allowed such instruction without review, based upon the regional accreditation of the institutions.

- ▮ *Specific to telecommunications:* None of the statutes directly addresses electronically offered higher

education programs. New Mexico is in the process of reviewing all distance education policies and developing a statewide plan for an extended learning network.

Authorizing Agency: New Mexico Commission on Higher Education.

Procedures: Out-of-state institutions wishing to offer residential instruction within the state or to solicit students for residential programs out of state should contact the Commission on Higher Education for current information about application and fees.

Fees: Out-of-state institutions recruiting students within New Mexico pay annual fees of \$500 plus \$100 for each agent. Private in-state institutions subject to licensure pay fees ranging from \$200 to \$5,000, depending upon their tuition revenue.

Contact: Bill Simpson, Commission on Higher Education, 505/827-7391.

NORTH DAKOTA

Policy: Out-of-state institutions must seek approval from the State Board for Vocational and Technical Education to operate in the state. The staff of the State Board of Higher Education is consulted in the case of an academic institution. A minimum standard for any institution seeking authorization is accreditation status.

- ▮ ***Specific to telecommunications:*** The Century Code, which covers out-of-state institutions, does not refer to distance education.

Authorizing Agency: The State Board for Vocational and Technical Education and the State Board of Higher Education.

Procedures: Each institution seeking authorization to offer educational courses or programs in North Dakota must submit an application, along with information requested by the Board, such as the following:

- ▮ accreditation site visit reports of its other off-campus offerings;
- ▮ relationship of program to institution mission;
- ▮ institution's statement of reason for offering courses in North Dakota;
- ▮ a description of instructional and supportive resources;
- ▮ a copy of the most recent catalog;

- ✓ a financial report; and
- ✓ a copy of a student consumer information statement

Once approved, a renewal request is required every year.

Fees:

- ✓ \$100 – initial institutional application fee
- ✓ \$ 25 – renewal institutional application fee
- ✓ \$ 25 – agent application fee
- ✓ \$10,000 – Institution Surety Bond
- ✓ \$ 1,000 – Agent bond

Contact: Nancy Rittel, North Dakota University System,
701/224-4136. Gene Sayler, North Dakota State Board for
Vocational and Technical Education, 701/328-3123.

OREGON

Policy: Out-of-state institutions are required to obtain prior state authorization in order to offer a new degree, and to submit renewal applications for previously authorized programs. Authorization is for a fixed period of time, not to exceed three years.

This authorization is required when the out-of-state program is facilitated knowingly by someone acting within the state. This rule does not apply to unauthorized, out-of-state institutions when "action is taken" entirely outside the state, or "taken exclusively through individual and private interstate communication."

■ *Specific to telecommunications:* (According to Oregon Administrative Rules, a "representative of a school" includes a "provider of an instructional communications medium...regardless of whether there is compensation for services.") Therefore, if the program involves, for example, delivery via a local cable channel, the cable operator is considered to be connected with the program and thus must obtain prior approval.

Authorizing Agency: The Office of Educational Policy and Planning (OEPP) has responsibility for approving programs proposed by out-of-state institutions.

Procedures: A detailed application procedure and a set of standards are provided in ORS 583-30. The process in-

volves completing a 30-page application. In order to be eligible to apply, the school must appoint a "responsible agent who resides in the state" to handle the application and serve as an informed party throughout the approximately six-month application process. Application must be made at least six months prior to the intended first offering and must be accompanied by payment of an application fee.

The review process for applications considers such issues as faculty credentials, curricular content as compared with other similar, established, and reputable programs, educational resources, and student performance.

Fees:

- \$2,400 for an associate degree (with one or more "majors")
- \$3,600 for baccalaureate or masters degree
- \$4,800 for doctoral degree

Contact: David A. Young, Office of Educational Policy and Planning, 503/378-3921.

SOUTH DAKOTA

Policy: South Dakota's policy on out-of-state institutions is in the process of changing because of amendments in 1992 to South Dakota Chapter Law (SDCL) 13-48, which defines the licensing and application requirements for private and out-of-state institutions. One of these amendments repealed an exemption that had covered regionally accredited out-of-state postsecondary institutions and another established an advisory committee of academic vice presidents to assist in reviewing institutions seeking licensure. However, new policies resulting from this amendment have not yet been put into practice, in part because the law did not make adequate distinctions between degree-granting institutions and certificate-granting institutions. Until new administrative rules are written, out-of-state accredited institutions will no longer continue to be considered exempt but will be asked to submit streamlined applications for licensure.

- *Specific to telecommunications:* The 1992 amendments to SDCL 13-48 added a reference citing programs offered "through electronic media" to the definition of course/program covered by the law. This change has not yet been incorporated into administrative rules.

Authorizing Agency: The Department of Education and Cultural Affairs is responsible for reviewing out-of-state courses and programs.

Procedures: Out-of-state institutions interested in offering courses in South Dakota should contact the Department of Education and Cultural Affairs for a copy of current regulations. Accredited institutions would be required to submit a streamlined application and the pre-1992 licensing fee (see below).

Fees: Under the 1992 Amendments, the licensing application fee was increased from \$100 to \$1,000. As the Amendment requirements have not yet been put into practice, however, institutions would still be charged the pre-amendment fee of \$100.

Contact: Roxie Thielen, South Dakota Department of Education and Cultural Affairs, 605/773-3134.

UTAH

Policy: The only requirement for accredited out-of-state institutions is that they notify the Board of Regents that they intend to offer a program in Utah. Non-accredited out-of-state institutions must register with the Utah System of Higher Education through the Board of Regents and the Commissioner of Higher Education.

- ▮ *Specific to telecommunications:* Utah is actively exploring the use of technology to provide additional access to higher education, but current policies do not address out-of-state institutions.

Authorizing Agency: Utah System of Higher Education and State Board of Regents

Procedures: Out-of-state institutions must notify the Board of Regents that they intend to offer a program in the state. Non-accredited institutions must contact the System of Higher Education for information on registration.

Fees: None.

Contact: E. Jeffrey Livingston, Utah State Board of Regents, 801/321-7121.

WASHINGTON

Policy: Degree-granting, out-of-state institutions operating in Washington must obtain authorization from the Higher Education Coordinating Board (HECB). No institution will be authorized in Washington if it is not authorized to do business in the state in which it is located. Accredited institutions are exempt from obtaining authorization. However, "...a branch campus, extension center, or off-campus facility operating within the state of Washington, which is affiliated with an institution domiciled outside this state, must have separate institutional accreditation as a free-standing institution from a recognized accrediting agency to qualify for this exemption."

- ▼ *Specific to telecommunications:* Regulations apply, when there is physical presence, to "offering courses in person, by correspondence, or electronic media, at any Washington location for degree credit, including electronic courses transmitted into the state of Washington." The HECB has also completed a work plan entitled, *Planning for Distance Education and Supporting Policies*, "to provide direction for future development of postsecondary educational programs delivered in whole or in part by telecommunications and for a study on how this may best be accomplished." This study includes a recommendation addressing out-of-state providers,

which states: "The HECB will develop state policy on out-of-state providers of telecommunicated instruction." This policy is still in the process of being formulated.

Authorizing Agency: Washington Higher Education Coordinating Board

Procedures: At least six months prior to operation, an institution must apply to the Board for authorization. Details of required application materials are available from the Board. The Board will review each application in terms of defined standards, which include: mission, administration and governance, education programs and curricula, faculty, student services, instructional resources, finances, evaluation, and publications.

Fees:

- ✓ Initial application fee: \$2,000
- ✓ Surety Bond: 10 percent of the preceding year's total tuition and fee charges received for education services in Washington, but not less than \$25,000 nor more than \$250,000. In the case of new institutions, the bond for the first year will be \$25,000.

Contact: Elaine Jones, Higher Education Coordinating Board, 360/753-7823.

WYOMING

Policy: Non-accredited institutions must be licensed to operate in Wyoming. Exceptions are religious schools, home-based educational programs, aircraft flight training schools, or those teaching techniques of outdoor recreation, leadership, conservation, etc.

✔ *Specific to telecommunications:* No reference.

Authorizing Agency: Wyoming State Department of Education

Procedures: Non-accredited private institutions must apply to the State Department of Education for a license to operate in Wyoming. Applicants must provide either documentation that the institution is seeking appropriate accreditation or a statement that it is not seeking accreditation and explaining why it is not necessary. Information on other required materials may be obtained from the State Department of Education.

Fees:

- ✔ \$10,000 performance bonds for institutions with annual enrollment of 10 or fewer;
- ✔ \$25,000 performance bonds for institutions with enrollment of 11-20 students;
- ✔ \$50,000 performance bonds for institutions with enrollment of more than 20.

Contact: Jim Boreing, Wyoming State Department of Education, 307/777-6272.

APPENDICES

Pinciples of Good Practice for Electronically Offered Academic Degree and Certificate Programs

PREAMBLE

These Principles are the product of a Western Cooperative for Educational Telecommunications project, *Balancing Quality and Access: Reducing State Policy Barriers to Electronically Delivered Higher Education Programs*. The three-year project, supported by the U.S. Department of Education's Fund for the Improvement of Postsecondary Education, is designed to foster an interstate environment that encourages the electronic provision of quality higher education programs across state lines. The Principles have been developed by a group representing the Western states' higher education regulating agencies, higher education institutions, and the regional accrediting community.

Recognizing that the context for learning in our society is undergoing profound changes, those charged with developing the Principles have tried not to tie them to or compare them to traditional campus structures. The Principles are also designed to be sufficiently flexible that institutions offering a range of programs — from graduate degrees to certificates — will find them useful.

Several assumptions form the basis for these Principles:

- The electronically offered program is provided by

or through an institution that is accredited by a nationally recognized accrediting body.

- ✓ The institution's programs with specialized accreditation meet the same requirements when offered electronically.
- ✓ The "institution" may be a traditional higher education institution, a consortium of such institutions, or another type of organization or entity.
- ✓ These Principles address programs rather than individual courses.
- ✓ It is the institution's responsibility to review educational programs it provides via technology in terms of its own internally applied definitions of these Principles.

CURRICULUM AND INSTRUCTION

- ✓ Each program of study results in learning outcomes appropriate to the rigor and breadth of the degree or certificate awarded.
- ✓ An electronically offered degree or certificate program is coherent and complete.
- ✓ The program provides for either real-time or delayed interaction between faculty and students and among students.
- ✓ Qualified faculty provide appropriate oversight of the program electronically offered.

INSTITUTIONAL CONTEXT AND COMMITMENT

Role and Mission

- ✓ The program is consistent with the institution's role and mission.
- ✓ Review and approval processes ensure the appropriateness of the technology being used to meet the program's objectives.

Faculty Support

- ✓ The program provides faculty support services specifically related to teaching via an electronic system.
- ✓ The program provides training for faculty who teach via the use of technology.

Resources for Learning

- ✓ The program ensures that appropriate learning resources are available to students.

Students and Student Services

- ✓ The program provides students with clear, complete, and timely information on the curriculum, course and degree requirements, nature of faculty/student interaction, assumptions about technological competence and skills, technical equipment requirements, availability of academic support services and financial aid resources, and costs and payment policies.

- Enrolled students have reasonable and adequate access to the range of student services appropriate to support their learning.
- Accepted students have the background, knowledge, and technical skills needed to undertake the program.
- Advertising, recruiting, and admissions materials clearly and accurately represent the program and the services available.

Commitment to Support

- Policies for faculty evaluation include appropriate consideration of teaching and scholarly activities related to electronically offered programs.
- The institution demonstrates a commitment to ongoing support, both financial and technical, and to continuation of the program for a period sufficient to enable students to complete a degree/certificate.

EVALUATION AND ASSESSMENT

- The institution evaluates the program's educational effectiveness, including assessments of student learning outcomes, student retention, and student and faculty satisfaction. Students have access to such program evaluation data.
- The institution provides for assessment and documentation of student achievement in each course and at completion of the program.

Project Overview and Implementation Options

BACKGROUND

Balancing Quality and Access: Reducing State Policy Barriers to Electronically Delivered Higher Education Programs is a three-year project supported by the Fund for the Improvement of Postsecondary Education (FIPSE) and conducted by the Western Cooperative for Educational Telecommunications. The project's goal is to create an environment that fosters the interstate delivery of high quality, electronically delivered higher education degree and certificate programs.

The first two years of the project have been completed, with the following achievements:

- **An understanding of the regulatory environment in Western states with respect to telecommunicated learning.** Based on a review of state documents and interviews with state-level officers and higher education institutions, staff completed a report on states' policies and practices affecting electronically offered programs (see *When Distance Education Crosses State Boundaries: States' Policies* 1995).

- **Agreement on a set of Principles of Good Practice for Electronically Offered Academic Degree and Certificate Programs.** The Principles of Good Practice incorporate suggestions made by interviewees and by attendees at

a meeting of the project advisory committee that also included representatives from all WICHE states and the western regional accrediting commissions. A draft version of the Principles were also widely circulated, in print and electronic format, to obtain input from those in colleges and universities in the West.

ROLE OF ACCREDITING COMMISSIONS

WICHE states vary widely in terms of whether and to what degree they regulate distance delivery of education programs. This project has made clear the role that regional accreditation continues to play as a primary indicator of quality in state policies governing interstate program delivery. In many WICHE states accreditation is the principal criterion for granting approval of out-of-state institutions interested in offering an electronically delivered academic degree.

There are several problems with relying on accreditation in its present form, however. Accrediting associations have approached the evaluation of distance learning programs inconsistently from region to region. Moreover, because there are no standards in place for distance learning programs, accrediting reviews have tended to focus on program aspects that are appropriate in evaluating face-to-face instruction but may not be relevant in assessments of electronically delivered education.

The accrediting community as a whole, through a Committee on Distance Learning that represents all the regional accrediting associations, is now on the brink of

developing specific standards for electronically delivered programs. This committee is using the Western Cooperative project's Principles of Good Practice as a starting point for developing these standards. The four accrediting associations in the WICHE region, which are involved in this project, will also play an important role in implementation of the Principles throughout the West.

POTENTIAL BENEFITS

Broad acceptance of the Principles of Good Practice for Electronically-Offered Academic Degree and Certificate Programs by the higher education community is likely to bring about the following significant benefits:

- ✔ State higher education agencies can fulfill their consumer protection role by requiring that programs originating in other states adhere to the Principles;
- ✔ If the accrediting community adopts these Principles, the accrediting process will for the first time address distance learning in a consistent way and in terms of relevant and known criteria;
- ✔ Institutions interested in developing electronically delivered programs will have clear direction in terms of quality criteria and of the Principles upon which accrediting reviews of these programs will be based;
- ✔ Faculty may feel more secure participating in electronically-delivered programs because they will have assurance that such efforts meet explicit standards;
- ✔ Students will be assured that programs offered by out-of-state providers meet defined quality criteria;

▮ Protectionist legislation, currently being considered in some states, will be unnecessary;

▮ States and institutions can rely on the Principles to support or complement their own efforts to address quality in telecommunicated programs;

▮ Additional high-quality programs will be available throughout the West, enabling states to increase educational opportunities and avoid program duplication in tight fiscal environments.

IMPLEMENTATION

The project is now entering its final year. The Western Cooperative, WICHE, and the State Higher Education Executive Officers Association will: 1) work with individual states and their higher education agencies to achieve region-wide adoption of the Principles, and 2) work with the four western regional accrediting commissions and their distance education committee. The form of implementation may vary from state to state, and the Principles may be used in any of the following ways:

▮ **As a commonly accepted set of standards agreed upon by Western states for programs originating from their state.** If an educational program originates from another state using these Principles in its internal review process, the program will be approved for offering in a receiving state.

▮ **As a requirement only for programs offered by out-of-state institutions or providers.** Regulatory agencies will require that programs proposed by out-of-state

institutions or providers must adhere to the Principles. In-state programs will not be affected.

✓ **As a "seal of approval" only.** The Principles will not become incorporated into regulatory policy but would be a mark of excellence. Institutions meeting these criteria can advertise the fact that they do so.

✓ **As the formal standards used by accrediting associations to review an institution's electronically delivered programs.** States that use accreditation as the criterion for approving out-of-state programs will know that electronically delivered programs have been evaluated in terms of these Principles.

✓ **As the basis for language in new state legislation addressing acceptance of out-of-state programs.** Where state statute governs the regulation of out-of-state programs, new legislation will incorporate the Principles into regulatory policy.

These are some of the potential ways the project may make a real difference in terms of "balancing quality and access" in programs delivered electronically across the West and, eventually, across the nation. We hope this project will encourage higher education institutions, state regulatory agencies, and accrediting bodies to work together to use the new delivery models to the best advantage of students.

